

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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United States of America,

03 Cr. 717 (MGC)

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- against -

ORDER

Martha Stewart and Peter Bacanovic,

Defendants.

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WHEREAS, the proceedings in this case have generated  
widespread and intense media coverage;

WHEREAS, the "press" as used in this Order includes  
representatives of the print, broadcast and internet media,  
sketch artists, photographers, free-lance journalists, authors,  
and writers;

WHEREAS, portions of the jury questionnaire provided to  
prospective jurors on January 6, 2004 were disclosed to the  
public in violation of this Court's directives; and

There has been considerable speculation in the press  
concerning the identities of prospective jurors, and there is a  
substantial likelihood that some members of the press may  
disclose the names of prospective or selected jurors with their  
responses to voir dire questions;

WHEREAS, there is a substantial risk that such publication  
or the possibility of such publication would prevent prospective

jurors from giving full and frank answers to questions posed to them during voir dire;

WHEREAS, in a case that has generated such widespread publicity, it is essential that prospective jurors disclose what they have read or heard about defendants, and what opinions or preconceptions they hold about defendants, see United States v. King, No. 94 Cr. 455 (LMM), 1998 WL 50221, at \*6 (S.D.N.Y. Feb. 5, 1998), aff'd 140 F.3d 76 (2d Cir. 1998);

WHEREAS, without such candor on the part of prospective jurors, there is a substantial risk that defendants' absolute right to a fair trial and an impartial jury will be impaired;

WHEREAS, at the request of all of the parties, individual voir dire of each prospective juror will take place in the robing room;

WHEREAS, the Court, following Press-Enterprise Co. v. Superior Court of California, 464 U.S. 501 (1984), and United States v. King, 140 F.3d 76 (2d Cir. 1998), has chosen an alternative less restrictive than completely closing voir dire, by permitting a redacted transcript of each day's voir dire proceedings to be published the following day;

WHEREAS, for the reasons stated in King, 1998 WL 50221 at \*7, there is no alternative that adequately ameliorates the chilling effect that the presence of members of the press in the robing room would be likely to have on juror candor;

UPON the application of David N. Kelley, the United States Attorney for the Southern District of New York, by and through Assistant United States Attorneys Karen Patton Seymour, Michael S. Schachter, and William A. Burck, and with the consent of the defendants;

IT IS HEREBY ORDERED that no member of the press may be present for any voir dire proceedings that are conducted in the robing room;

IT IS FURTHER ORDERED that a transcript of each day's voir dire proceedings will be made public the following day, with the names of prospective or selected jurors redacted from the transcripts, as well as such deeply personal information as any juror shall reasonably request not be made public, see Press-Enterprise, 464 U.S. at 511-12;

IT IS FURTHER ORDERED that no member of the press may sketch or photograph or divulge the name of any prospective or selected juror; and

IT IS FURTHER ORDERED that this Order shall be in effect as to each prospective or selected juror until such time as that juror's service in this case is complete, as determined solely by this Court.

SO ORDERED.

Dated: New York, New York  
January 15, 2004

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MIRIAM GOLDMAN CEDARBAUM  
United States District Judge